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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

Request for Amendment of  
Sections 2.803-2.806 of the  
Commission's Rules Relating to  
the Marketing of Radio  
Frequency Devices

RM-8125

REPLY COMMENTS OF THE CONSUMER ELECTRONICS GROUP  
OF THE ELECTRONIC INDUSTRIES ASSOCIATION

The Consumer Electronics Group of the Electronic Industries Association ("EIA/CEG") hereby replies to the comments filed on December 24, 1992, by the National Association of Broadcasters ("NAB") in response to EIA/CEG's petition for rulemaking. EIA/CEG is pleased to see that NAB also recognizes that the rules governing the marketing of radio frequency devices "are confusing and in need of amendment."<sup>1</sup> EIA/CEG also welcomes NAB's recognition that "these rules should be simplified and clarified for the benefit of manufacturers desiring to demonstrate and define markets for new devices."<sup>2</sup> NAB's support for these two propositions -- coupled with the absence of any opposition

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1. NAB Comments at 1.
  2. NAB Comments at 2.

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from any other party -- provides ample reason for the Commission to proceed with a rulemaking along the lines suggested in EIA/CEG's petition.

To be sure, NAB has refrained from offering unqualified support for EIA/CEG's petition. As discussed below, there appears to be one relatively minor point of disagreement. Although this issue can be ventilated at greater length, if necessary, in the course of the rulemaking process, it seems appropriate to offer a preliminary response to NAB at this stage. There is no reason, however, to delay the formulation of a notice of proposed rulemaking.

NAB believes that manufacturers should be required, before demonstrating their products at trade shows or at the sites of potential customers, to conduct "some minimal preliminary interference testing" and to accompany the product with a certification to this effect from the manufacturer.<sup>3</sup> NAB readily agrees that manufacturers should not be required "to make rigorous RFI measurements" in the early stages of product development,<sup>4</sup> yet NAB nonetheless proposes to amend the rules proposed by EIA/CEG by adding requirements for "a certification from the manufacturer that

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3. NAB Comments at 2-3 (emphasis in original).

4. NAB Comments at 3.

the device has undergone preliminary tests for the purpose of ascertaining the radio frequency interference potential of the device."<sup>5</sup> EIA/CEG does not believe that this suggestion is necessary or appropriate.

First, the language suggested by NAB is too imprecise to be of any value; it provides no real guidance as to what testing would be required (e.g., measurement procedures, instrumentation, and detail required). Second, the essence of NAB's proposed requirement is already implicit in the language EIA/CEG has proposed for Section 2.803(e). Third, NAB's proposal is unnecessarily burdensome. At the greatest extreme, it would even require that preliminary interference testing be performed -- and that a warning label be displayed -- before the manufacturer could conduct "compliance testing" (that is, to conduct interference testing)! NAB's approach would not advance any legitimate regulatory objective, and it should not be included in the rules proposed by the Commission.

EIA/CEG is not at odds with the the goal of NAB's proposal. There is an alternative approach which would provide at least an equal measure of assurance against unchecked interference by operation of unapproved devices.

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5. NAB Comments at Appendix, proposed Section 2.803(c)(1), (c)(2) & (c)(4).

Specifically, the Commission may wish to require the manufacture to certify, with respect to any public pre-approval operation of a device subject to FCC approval, that "this device was designed with the intent of compliance with all applicable FCC requirements." This language could be added to the other provisions of the "conspicuous notice" set forth in EIA/CEG's proposed Section 2.803(b).<sup>6</sup>

NAB has itself suggested a revision to EIA/CEG's earlier proposal regarding the wording of proposed Section 2.803(b). NAB's wording would conform EIA/CEG's proposal more closely to the language currently used in Section 2.803. The verbiage suggested by EIA/CEG (excepting the word "yet") was drawn from current Section 2.806(a), and EIA/CEG considered that digital device manufacturers might object to any alteration of the present formulation. Still, the import of the language is the same, and EIA/CEG would be comfortable with either approach (supplemented, as noted above, by the language now offered in response to NAB's proposal for a requirement of preliminary testing).

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6. Needless to say, there is no reason to require the display of a notice during compliance testing, developmental operations at the manufacturer's own facilities, or similar activities. The purpose of the notice is to advise the public -- that it, parties who might wish to purchase the device -- that it is not yet approved and that no sales transaction can be consummated until such approval is obtained.

\* \* \* \* \*

The one minor area of disagreement should not obscure the overarching agreement on the thrust of the petition. There is consensus that the timely introduction of new products should not be impeded by unnecessary regulatory restrictions. No party has claimed that trade show demonstrations of non-approved devices (either digital devices operating under current Section 2.806 or other products operating under Special Temporary Authorizations) have caused harmful interference to authorized radio services. Similarly, no party has refuted EIA/CEG's showing that all Part 15 devices should enjoy the same marketing flexibility already available to digital devices.

In short, the record contains abundant reasons for the Commission to initiate a rulemaking proceeding along the

lines suggested in EIA/CEG's petition. EIA/CEG therefore urges the Commission to commence such a proceeding without delay.

Respectfully submitted,

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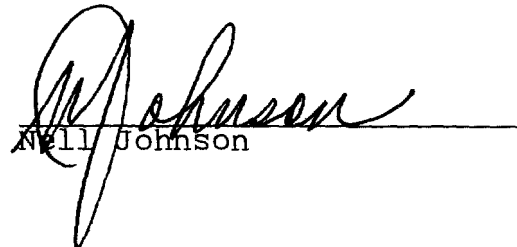
January 8, 1993

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing "Reply Comments of the Consumer Electronics Group of the Electronic Industries Association" was served this 8th day of January, 1993, by first class, postage prepaid mail, to:

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